



State of California – Natural Resources Agency

DEPARTMENT OF FISH AND WILDLIFE

South Coast Region  
3883 Ruffin Road  
San Diego, CA 92123  
(858) 467-4201

[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

GAVIN NEWSOM, Governor  
CHARLTON H. BONHAM, Director



Governor's Office of Planning &amp; Research

July 28 2021

## STATE CLEARINGHOUSE

July 28, 2021

Ben Peralta  
Three Valleys Municipal Water District  
1021 Miramar Avenue  
Claremont, CA 91711  
[bperalta@tvmwd.com](mailto:bperalta@tvmwd.com)

**Subject: Six Basins Strategic Plan, Draft Program Environmental Impact Report, SCH #2018091020, Three Valley Municipal Water District, Los Angeles County**

Dear Mr. Peralta,

The California Department of Fish and Wildlife (CDFW) has reviewed the Draft Program Environmental Impact Report (DPEIR) and associated documentation, *Biological Resources Assessment* (BRA), from the Three Valley Municipal Water District (TVMD; Lead Agency) for the Six Basins Strategic Plan (Project). Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

**CDFW's Role**

CDFW is California's Trustee Agency for fish and wildlife resources and holds those resources in trust by statute for all the people of the State [Fish & G. Code, §§ 711.7, subdivision (a) & 1802; Pub. Resources Code, § 21070; California Environmental Quality Act (CEQA) Guidelines, § 15386, subdivision (a)]. CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (Id., § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect State fish and wildlife resources.

CDFW is also submitting comments as a Responsible Agency under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code, including lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 *et seq.*). Likewise, to the extent implementation of the Project as proposed may result in "take", as defined by State law, of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 *et seq.*), or CESA-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish & G. Code, §1900 *et seq.*), CDFW recommends the Project proponent obtain appropriate authorization under the Fish and Game Code.

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## Project Description and Summary

**Background:** The Six Basins are six interconnected groundwater basins located along the base of the San Gabriel Mountains. The basins are Canyon Basin, Upper Claremont Heights Basin (UCHB), Lower Claremont Heights Basin (LCHB), Pomona Basin, Live Oak Basin and Ganesha Basin. The limits of the Six Basins area are the San Gabriel Mountains to the north, the San Jose Hills to the south, the Main San Gabriel Basin to the west, and the Chino Basin to the east. The pumping and storage rights for the Six Basins were adjudicated in 1998 through a stipulated judgment (Judgment) titled “Southern California Water Company vs. City of La Verne, et al.” in the Superior Court of California for the County of Los Angeles (Court)(Case No. KC029152). The Judgment prescribes a physical solution for the coordinated management of the Six Basins with the objective that the Parties to the Judgment can reliably pump their respective rights and maximize the beneficial use of groundwater. While the Court maintains continuing jurisdiction over the Judgment, the Judgment also established a Six Basins Watermaster to implement the physical solution.

Part of the solution was the establishment of a Safe Yield at 19,300 acre-feet per year (afy) and a Base Annual Production Right for each Party as a percentage of the Safe Yield. This was based on historical groundwater production for the period of 1985 through 1996 and a Safe Yield study developed by Camp Dresser McKee (CDM, 1996). Safe Yield is defined in the Judgment as “*the amount of groundwater, including Replenishment and return flows from imported water, that can reasonably be produced from the combined Two Basins and Four Basins Areas on an annual basis without causing an undesirable result*”.

Although prior hydrologic and physical conditions limited the Safe Yield to 19,300 afy, through the coordinated and equitable management of the Six Basins, the Physical Solution of the Judgment establishes that an Operating Safe Yield (OSY), an Operating Plan, and Base Annual Production Rights can be established independently for the Four Basins (Canyon Basin, UCH, Lower Claremont Heights Basin, and Pomona Basin) and the Two Basins areas (Live Oak Basin and Ganesha Basin). The Two Basins are for the sole use of the City of La Verne.

**Objective:** The proposed Project is to construct and operate projects in a coordinated manner to optimize conjunctive water management activities in the Six Basins. This would be to increase the reliability of regional water supplies. Execution of the Strategic Plan would be accomplished through the implementation of a number of projects identified by the Watermaster Parties. Implementation includes two elements: 1) a planning/programming element consisting of the development of an updated Operating Plan; and 2) a physical element consisting of the construction of new facilities and/or improvements to existing facilities with on-going operation/maintenance of those facilities.

For the environmental evaluation of Strategic Plan implementation, including updating the Six Basins Watermaster Operating Plan, the projects to optimize conjunctive water management, were placed in four categories:

1. Pump and Treat Groundwater in the Pomona Basin –improvements to existing facilities to increase groundwater production and treatment capacity.
2. Recharge Improvements – enhancement of stormwater and supplemental water recharge.
3. Temporary Surplus – rehabilitation to the existing City of Pomona’s P-20 wellhead and

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treatment facility in the Lower Claremont Heights Basin (LCHB) and construction and operation/maintenance of new production wells and pipelines; and,

4. Monitoring Programs in Support of the Strategic plan – development and implementation of groundwater monitoring program to support the design of new wells and treatment facilities.

**Location:** The Six Basins are six interconnected groundwater basins located along the base of the San Gabriel Mountains. Regionally, the Six Basins underly a portion of the Eastern San Gabriel Valley in Los Angeles County, the City of Upland, and the unincorporated community of San Antonio Heights in western San Bernardino County. The Project area is an urbanized area along the base of the mountains. The basins are Canyon Basin, Upper Claremont Heights Basin (UCHB), Lower Claremont Heights Basin (LCHB), Pomona Basin, Live Oak Basin, and Ganeshha Basin. The limits of the Six Basins area are the San Gabriel Mountains to the north, the San Jose Hills to the south, the Main San Gabriel Basin to the west, and the Chino Basin to the east.

## Comments and Recommendations

CDFW offers the comments and recommendations below to assist TVMWD in adequately identifying, avoiding, and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts on fish and wildlife (biological) resources. CDFW recommends the measures or revisions below be included in a science-based monitoring program that contains adaptive management strategies as part of the Project's CEQA mitigation, monitoring, and reporting program (Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15097).

## Specific Comments

### Comment #1: Groundwater Dependent Ecosystems

**Issue:** The Project may impact biological resources located in areas identified with groundwater dependent ecosystems (GDE). In addition, these ecosystems do not seem to be identified in the DPEIR.

**Specific impacts:** The Project may cause local extirpation of wildlife from otherwise suitable habitat through increasing pumping efforts and constructing recharge improvements facilities. The construction of these facilities may remove habitat and alter groundwater levels, significantly impacting GDEs.

**Why impacts would occur:** DWR's [Natural Communities Commonly Associated with Groundwater Dataset](#) identifies many potential GDEs in the Projects geographic boundary (DWR 2021). The potential GDEs identified likely comprise phreatophytic vegetation, which rely on water supply from the groundwater table. This vegetation is a critical contributor to habitat and forage for a wide range of species and can be sensitive to depth to groundwater threshold impacts (Naumburg et al. 2005, Froend and Sommer 2010). This sensitivity to groundwater level thresholds means that localized pumping and recharge actions altering groundwater levels (such as those proposed in the Project) can impact phreatophyte vegetation health. Both decreasing (drying out) or increasing (drowning) groundwater elevation has the potential to

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stress phreatophytes depending on the plant species and the groundwater elevation and duration (e.g., short term wetness/dryness versus prolonged wetness/dryness).

New recharge basins are proposed within the San Antonio Creek Spreading Grounds (SASG) and the Thompson Creek Spreading Grounds (TCSG). DWR has identified the locations of these spreading grounds as GDEs. CDFW is concerned that the installation of new spreading grounds will not only remove GDEs but potentially increase groundwater elevation, negatively impacting surrounding GDE vegetation. In addition, new production and monitoring wells and new pipelines may be located within GDEs. Therefore, construction efforts associated with these projects may temporarily disturb or remove GDEs.

**Evidence impacts would be significant:** CDFW has a vested interest in the sustainable management of groundwater, as many sensitive ecosystems and resources are dependent on groundwater. The San Gabriel Valley Groundwater Basin is likely exempt from the Sustainable Groundwater Management Act (SGMA) requirements due to its majority adjudicated status. However, the Department of Water Resources (DWR) documented declining groundwater levels and potential for adverse impacts to streams and habitat in San Gabriel Valley Groundwater Basin attributable to groundwater pumping according to the SGMA Basin Prioritization (DWR 2020). Absent SGMA requirements for environmental considerations and protections, it is incumbent upon the Six Basins Watermaster to consider and manage for impacts to public trust resources, including GDEs and interconnected surface waters in the Project. Per CEQA Guidelines section 15065(a), a project may have a significant effect on biological resources if the project substantially reduces the habitat of a fish or wildlife species; threatens to eliminate a plant community; or has the potential to restrict the range of an endangered, rare, or threatened species. By impacting sites like GDEs without mitigation, the Project may have a significant effect on biological resources by further eliminating a plant community and reducing habitat for wildlife species.

#### **Recommended Potentially Feasible Mitigation Measure(s):**

**Mitigation Measure #1:** CDFW recommends Project proponents conduct the following for individual subsequent projects: 1) determine which proposed project actions are most likely to impact GDEs, 2) deploy representative groundwater monitoring stations within GDEs to track groundwater levels and vegetation responses overtime, and 3) establish thresholds/triggers for adaptive management to respond to stressed vegetation as needed.

**Mitigation Measure #2:** There is potential that the proposed projects could benefit GDEs. For example, injection wells or new spreading grounds could increase groundwater levels, so it becomes more accessible to vegetation. This allows GDEs to persist or potentially expand. Through the use of the monitoring stations mentioned in the previous mitigation measure, they should be monitored for sustainable groundwater levels and the GDE response. If GDEs display a positive response to projects, then Project proponents should maintain groundwater management activities to allow GDEs to sustain that beneficial level.

**Recommendation:** The subsequent CEQA document should verify the GDE existence, identify vegetated communities (e.g., species compositions), and disclose associated rooting depths/optimal groundwater table elevations. This verification should be conducted for any area sited for individual subsequent projects.

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## **Comment #2: California Fully Protected Bird Species**

**Issue:** The Project may impact California Fully Protected bird species. According to Table 2 of the BRA, California black rail (*Laterallus jamaicensis coturniculus*), a California Fully Protected bird species, has potential to occur within the Project boundary. In addition, according to ebird, American peregrine falcon (*Falco peregrinus*) has been recorded multiple times within the Project boundary.

**Specific impacts:** Project construction and activities, directly or through habitat modification, may result in injury or mortality, reduced reproductive capacity, population declines, or local extirpation of these California Fully Protected bird species. Temporal or permanent loss of foraging, breeding, nesting, or nursery habitat may occur. In addition, diverting water from its current course may impact the availability of water for various bird species or habitats supporting birds, impacting the ability of Fully Protected species to persist within the Project boundary.

**Why impacts would occur:** Impacts to these species may occur as a result of ground-disturbing (e.g., staging, mobilization, demolition, and grading) activities, vegetation removal, increased human activity, noise disturbances, light, and dust. The Project proposes mitigation for nesting birds and raptors by having the biologist set “appropriate no-work buffers around the nest, which would be determined based on the nesting species, its sensitivity to disturbance, nesting stage and expected types, intensity and duration of disturbance.” Buffers for birds and raptors may not be large enough to avoid impacts on nests of California Fully Protected birds. Moreover, the Project’s proposed buffers only mitigates for impacts on nests, eggs, and nestlings during the bird/raptor breeding season. California Fully Protected species may not be taken at any time. Accordingly, an adequate mitigation plan would need to also avoid impacts on a California Fully Protected species during all life stages.

**Evidence impact would be significant:** The Project may result in adverse effects, either directly or through habitat modifications, on a California Fully Protected species. Take of any species designated as California Fully Protected under the Fish and Game Code is prohibited. CDFW cannot authorize the take of any California Fully Protected species as defined by State law. California Fully Protected species may not be taken or possessed at any time. No licenses or permits may be issued for take, except for collecting those species for necessary scientific research and relocation of the bird species for protection of livestock (Fish & G. Code, § 3511).

### **Recommended Potentially Feasible Mitigation Measure(s):**

**Mitigation Measure #1:** CDFW recommends the subsequent CEQA document include a mitigation measure whereby individual subsequent projects avoid impacts on California Fully Protected birds by implementing a minimum 0.5-mile no-disturbance buffer around each nest of a California Fully Protected bird. Additionally, a qualified biologist should develop a robust avoidance, buffer, and demarcation plan specifically for California Fully Protected birds depending on project-level specifics [e.g., project area, species, life stage(s), scope of work].

**Mitigation Measure #2:** CDFW recommends the subsequent CEQA document include a mitigation measure whereby individual subsequent projects notify and consult with CDFW if a Fully Protected species nest is detected within a project area.

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### **Comment #3: San Bernardino Kangaroo Rat**

**Issue:** Project activities at the SASG may impact San Bernardino Kangaroo Rat (*Dipodomys merriami* parvus; SBKR) habitat.

**Specific impacts:** The Project may result in temporary or permanent impacts or removal of SBKR habitat, crushing or filling of active colonies, causing the death or injury of adults or juveniles.

**Why impacts would occur:** Impacts may result from ground disturbing activities (e.g., staging, mobilization, and grading), vegetation removal, increased noise disturbances, light, human activity, and dust associated to the creation of new spreading grounds. In addition, diverting water from its current course may decrease the availability of water for SBKR or habitats supporting SBKR, impacting the ability of the species to persist within the Project boundary.

**Evidence impacts would be significant:** SBKR is a candidate CESA and ESA-listed species. SBKR has experienced loss, degradation, and fragmentation of habitat due to sand and gravel mining, flood control projects, and urban development (United States Fish and Wildlife Service 2007). It was once considered a common species, but the San Bernardino kangaroo rat had lost significant habitat by the 1930s. With continued habitat fragmentation and destruction, today nearly 95 percent of the kangaroo rat's habitat has disappeared. The SASG are within the far western part of SBKR range, and there is potential they may be present in the existing recharge basins.

CDFW considers adverse impacts to a species protected by CESA to be significant without mitigation under CEQA. As to CESA, take of any endangered, threatened, candidate species, from the Project is prohibited, except as authorized by State law (Fish & G. Code §§ 2080, 2085; Cal. Code Regs., tit. 14, §786.9). Additionally, as to ESA, take of any endangered, threatened, candidate species, from the Project is prohibited, except as authorized by federal law (Endangered Species Act § 10).

### **Recommended Potentially Feasible Mitigation Measure(s):**

**Mitigation Measure #1: Species surveys** – the Project proponent should retain a qualified biologist with experience surveying for SBKR. Prior to commencing any Project-related ground-disturbing activities, the qualified biologist should conduct surveys for where suitable habitat is present. Pre-construction surveys should be conducted no more than one week prior to initial Project-related ground-disturbing activities. Project related activities include construction, equipment and vehicle access, parking, and staging. Focused surveys should consist of appropriate time of day surveys, no more than one month from the start of any ground-disturbing activities. The surveys should include mapping of current locations of any SBKR for avoidance and relocation efforts and to assist construction monitoring efforts. The survey should be conducted so that 100 percent coverage of the Project site and surrounding areas is achieved.

If SBKR are detected, the qualified biologist should use visible flagging to mark the location where SBKR was detected. The qualified biologist should take a photo of each location, map each location, and provide the specific species detected at that location. The qualified biologist should provide a summary report of SBKR surveys to TVMWD before any Project-related

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ground-disturbing activities. The CDFW should be notified and consulted regarding the presence of any special-status wildlife species found on site during surveys. The United States Fish and Wildlife Service (USFWS) should also be notified. Additional avoidance and minimization measures may need to be developed with CDFW/USFWS.

**Mitigation Measure #2:** CDFW primarily recommends avoiding impacts to SBKR to the greatest extent feasible. If “take” or adverse impacts to SBKR cannot be avoided during any individual subsequent project activities or over the life of the Project, project proponents should apply for a CESA Incidental Take Permit (ITP), pursuant to Fish and Game Code section 2080 *et seq.* Early consultation is encouraged, as significant modification to a Project and mitigation measures may be required to obtain a CESA Permit. CDFW recommends that the project proponents seek appropriate take authorization under CESA prior to implementing the Project. Appropriate authorization from CDFW may include an ITP or a consistency determination in certain circumstances. CDFW may require separate CEQA documentation for the issuance of an ITP unless the Project CEQA document addresses all Project impacts to CESA-listed species and specifies a mitigation monitoring and reporting program that will meet the requirements of an ITP. For these reasons, biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for a CESA ITP.

#### **Comment #4: Crotch’s Bumble Bee**

**Issue:** A search of CNDDDB has indicated four occurrences of Crotch’s bumble bee within and adjacent to the Project boundary.

**Specific impacts:** The Project may result in temporal or permanent loss of suitable nesting and foraging habitat. Project ground-disturbing activities may cause death or injury of adults, eggs, and larva; burrow collapse; nest abandonment; and reduced nest success.

**Why impacts would occur:** Project activities, such as diverting water from its current course, may impact the availability of water for various bird species or habitats supporting birds, impacting the ability of Fully Protected species to persist within the Project boundary. In addition, ground disturbance and vegetation removal associated with Project implementation during the breeding season could result in the incidental loss of breeding success or otherwise lead to nest abandonment in areas adjacent to the Project area. Project activities may result in temporal or permanent loss of colonies, and suitable nesting and foraging habitat.

**Evidence impact would be significant:** Crotch’s bumble bee has a State ranking of S1/S2. This means that the Crotch’s bumble bee is considered critically imperiled or imperiled and is extremely rare (often 5 or fewer populations). Also, Crotch’s bumble bee has a very restricted range and steep population declines make the species vulnerable to extirpation from the State (CDFW 2017). Accordingly, Crotch’s bumble bee meets the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15380). Therefore, take of Crotch’s bumble bee could require a mandatory finding of significance by TVMWD (CEQA Guidelines, § 15065). Project activities may have potential to substantially reduce or adversely modify habitat, impair the viability of populations, and reduce the number and range of the Crotch’s bumble bee.

#### **Recommended Potentially Feasible Mitigation Measure(s):**

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**Mitigation Measure #1:** Due to suitable habitat within the Project site, CDFW recommends the subsequent CEQA document include a mitigation measure whereby individual subsequent projects analyze potential impacts on Crotch's bumble bee. If suitable habitats are on subsequent project sites, within one year prior to vegetation removal and/or grading for any subsequent projects, a qualified entomologist familiar with the species behavior and life history should conduct surveys to determine the presence/absence of Crotch's bumble bee. Surveys should be conducted during flying season when the species is most likely to be detected above ground, between March 1 to September 1 (Thorp et al. 1983). Survey results, including negative findings, should be submitted to CDFW prior to implementing Project-related ground-disturbing activities. At minimum, a survey report should provide the following:

- A) A description and map of the survey area, focusing on areas that could provide suitable habitat for Crotch's bumble bee. CDFW recommends the map show surveyor(s) track lines to document that the entire site was covered during field surveys.
- B) Field survey conditions that should include name(s) of qualified entomologist(s) and brief qualifications; date and time of survey; survey duration; general weather conditions: survey goals, and species searched.
- C) Map(s) showing the location of nests/colonies.
- D) A description of physical (e.g., soil, moisture, slope) and biological (e.g., plant composition) conditions where each nest/colony is found. A sufficient description of biological conditions, primarily impacted habitat, should include native plant composition (e.g., density, cover, and abundance) within impacted habitat (e.g., species list separated by vegetation class; density, cover, and abundance of each species).

**Mitigation Measure #2:** If Crotch's bumble bee is detected, the subsequent CEQA document should require project proponents, in consultation with a qualified entomologist, to develop a plan to fully avoid impacts to Crotch's bumble bee. The plan should include effective, specific, enforceable, and feasible measures. An avoidance plan should be submitted to TVMWD prior to implementing Project-related ground-disturbing activities and/or vegetation removal where there may be impacts to Crotch's bumble bee.

**Mitigation Measure #3:** If Crotch's bumble bee is detected and if impacts to Crotch's bumble bee cannot be feasibly avoided during Project construction and activities, project proponents/qualified entomologist should coordinate with CDFW to obtain appropriate handling permits for incidental take of Crotch's bumble bee and provide appropriate mitigation for impacts to Crotch's bumble bee habitat. CDFW recommends TVMWD mitigate for impacts to Crotch's bumble bee habitat at a ratio comparable to the Project's level of impacts.

#### **Comment #5: Water Diversion and Impacts on Streams**

**Issue:** The Project may divert surface stormwater and urban runoff for projects, such as those at the Pedley Spreading Grounds (PSG) and the LA County Fairplex (Fairplex). The Project may modify water received or discharged into channels throughout the Project boundary and install new diversion structures to spreading grounds. This may result in impacts to streams.

**Specific impact:** Diverting stormwater and runoff into stormwater catchment basins or infiltration galleries may reduce the availability and extent of water flow. Modifications to



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channels and installation of diversion structures may result in temporary or permanent impacts to a stream. There could be changes to the hydrologic regime both within the immediate area and downstream. Changes to the hydrologic regime could affect abiotic and biotic variables that support plants, fish, wildlife, and macroinvertebrates. Significant impacts to biological resources could occur, especially during a dry season proceeding after a below-average water year.

**Why impacts would occur:** Diversion structures may obstruct water flow and change the bed and channel of a stream (confinement). Water diversion may adversely affect the existing stream pattern, potentially resulting in substantial erosion or siltation within the project area and downstream. In addition, the DPEIR does not provide sufficient analysis as to whether the Project, specifically activities associated with the PSG and Fairplex projects, would impact biological resources within the project area, in the vicinity, and downstream.

*Biological Resources:* Both the concrete-lined and soft-bottom channels in the Project boundary support biological resources. The Project area could potentially support a variety of species that utilize washes and creeks as habitat, including four amphibian species, two bird species, and six mammal species listed in Table 2 of the BRA. A review of the California Natural Diversity Database (CNDDDB) shows Thompson Creek may support woody riparian vegetation alliances such as sycamore alder riparian woodland and coast live oak riparian forest.

Flow reductions, especially dry season flow, could impact beneficial uses directly or indirectly through habitat modifications. Diverting water from channels, such as the Thompson Wash, Live Oak Wash, and Marshall Creek, during the dry season could reduce the availability and extent of shallow water sheet flow. The resulting sheet flows allow phytoplankton (algae and cyanobacteria), microorganisms, and herbaceous vegetation to establish. The algae provide habitat and a food source for benthic invertebrates, a vital food source for wading birds. The diversion of water could potentially impact algae and benthic invertebrates, and eventually birds.

*Seasonality:* The DPEIR does not analyze the potential significance of water diversion depending on the season. During the dry season, typically April through September in southern California, the many concrete-lined channels are largely maintained by urban runoff and discharge from wastewater reclamation plants. Diverting water could be significant during the dry season and could either significantly reduce water flow or result in complete loss of water flow.

*Drought:* The DPEIR does not analyze the potential significance of water diversion during a below-normal water year. Since 2000, the longest duration of drought in California lasted between 2011 and 2019 (USGS 2021) and in southern California, between 2012 through 2016 (Los Angeles Almanac 2021). The 2017-2018 rainfall season was below normal and the driest for Los Angeles since 2006-2007 (Los Angeles Almanac 2021). Diverting water during a below-normal rainfall year may significantly reduce water flow or result in complete loss of water flow.

*Cumulative Flow Reductions:* The DPEIR does not analyze whether the Project would result in significant impacts when considered with other existing or proposed water diversion projects in surrounding water basins. The cumulative diversion of flows within the Project boundary and in surrounding water basins may lead to decreased flow in surface waters. This could impact not only vegetation and wildlife uses, but also potentially interconnected surface waters, up and downstream of project areas.

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**Evidence impacts would be significant:** Changes to hydrology and channel morphology, both within a project area and downstream, are reasonable potential direct and indirect physical changes in the environment. Said changes and their potential impacts on biological resources should be analyzed and disclosed in an environmental document. Adequate disclosure is necessary for CDFW to assist a lead agency in adequately identifying, avoiding, and/or mitigating a project's significant, or potentially significant, direct, and indirect impacts on biological resources. Inadequate avoidance, minimization, and mitigation measures for impacts to sensitive or special status species will result in a project continuing to have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species by CDFW, USFWS, and/or National Marine Fisheries Service (NMFS).

In addition, Fish and Game Code section 1602 requires any person, state or local governmental agency, or public utility to notify CDFW prior to beginning any activity that may do one or more of the following:

- Divert or obstruct the natural flow of any river, stream, or lake;
- Change the bed, channel, or bank of any river, stream, or lake;
- Use material from any river, stream, or lake; or,
- Deposit or dispose of material into any river, stream, or lake.

The construction of diversion devices such as deployable barriers and inflatable dams, and conveyance of water structures within a stream is subject to notification under Fish and Game Code section 1602. The ongoing operations and maintenance of instream storm flow diversion devices and conveyance of water structures is also subject to notification under Fish and Game Code section 1602 once the devices are constructed. Also, the diversion of stormwater and/or dry weather runoff that flows within streams or that have overflowed the banks of streams may be subject to notification under Fish and Game Code section 1602.

### **Recommended Potentially Feasible Mitigation Measure(s):**

**Mitigation Measure #1:** CDFW recommends the subsequent CEQA document include a mitigation measure whereby individual subsequent projects analyze potential impacts on biological resources resulting from proposed water diversion. At a minimum, an analysis and should include:

#### *Study Reach*

- 1) A study reach that includes an additional length of channel downstream from a project site. The additional study reach should extend a minimum of one mile downstream, or to the extent of the channel downstream that could be expected to be affected similarly by a proposed project (hydraulic and ecological zones), or an appropriate distance determined by both a qualified biologist and hydrologist, whichever is greater.

#### *Changes to Hydrology and Hydraulics*

- 1) Under pre-project (i.e., baseline) conditions, the volume of water flow from both the project area and study reach during a) the wet (November through March); b) the dry season (April through October); and c) above-average and below-average water year (i.e., wet season/above-average water year, wet season/below-average water year, dry season/above-average water year, and dry season/below-average water year). The

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analysis should clearly define above-average or below-average rainfall year.

- 2) Under proposed project conditions, the percent reduction in flow from both the project area and study reach for a wet season/above-average water year, wet season/below-average water year, dry season/above-average water year, and dry season/below-average water year.
- 3) A quantitative analysis comparing the flow from the project area and other tributaries into the study reach, and their relative contribution to the hydrograph of the study reach.
- 4) An analysis of potential project-related changes to river hydraulics in both concrete-lined and soft-bottom reaches. This includes water depth (percent change), wetted perimeter (acres gained/lost), and velocity (percent change).

#### *Biological Resources Impact Assessment*

- 1) A map of plant communities and important bird foraging and nesting habitat occurring in the study reach. Plant communities should be mapped at the alliance/association level using the [Manual of California Vegetation](#), second edition (Sawyer et al. 2009). Also, CDFW recommends an updated and thorough floristic-based assessment of plant communities, following CDFW's [Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities](#) (CDFW 2018).
- 2) A comprehensive list of sensitive and special status plant and wildlife species, and sensitive plant communities, occurring in the study reach. For each biological resource, provide:
  - a. A summary of species-specific habitat requirements.
  - b. A discussion as to how the species or plant community may be significantly impacted directly or indirectly through habitat modification, as result of changes to hydrology (reduced flow) and hydraulics (water depth, wetted perimeter, velocity); and,
  - c. A quantitative analysis and/or adequate discussion to evaluate whether the project would result in those significant impacts.
- 3) A discussion of whether construction, operations, and maintenance of diversion devices such as rubber dams, pipes, and tunnels, would have direct and/or indirect, permanent or temporal impact on biological resources.
- 4) An adequate discussion to address how the project may potentially affect on-going habitat recovery and restoration efforts.
- 5) An adequate discussion of project-related impacts on biological resources in relation to cumulative flow reductions.

**Mitigation Measure #2:** For projects proposing to divert water, CDFW recommends the subsequent CEQA document include a mitigation measure whereby individual subsequent projects develop an Adaptive Management Plan that would reduce or suspend water diversion if at any point the project may impact biological resources downstream exceeding a defined threshold/trigger.

**Mitigation Measure #3:** CDFW recommends project proponents provide a copy of the basis of water right (water right permit) by State Water Resources Control Board that authorizes the beneficial use of stormwater or dry weather flows diverted from streams. This information along with the LSA Notification would assist CDFW in assessing the need for an LSA Agreement. CDFW recommends including documentation of water rights in a project-level CEQA document

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to ensure project budgets and timelines consider CDFW's regulatory process in the implementation of projects under the Six Basins Strategic Plan.

**Mitigation Measure #4:** CDFW recommends modifying Mitigation Measure BIO-4, *Wetland Permits*, to include the underlined language:

“Waters of the State or Waters of the U.S. the Watermaster Party undertaking a project shall consult with the regulatory agencies (USACE, RWQCB and CDFW) to determine if a CWA 404 permit, CWA 401 or a Streambed Alteration Agreement under Fish and Game Code 1602 are required prior to development. Based on a notification pursuant to Fish and Game Code section 1602 and other information, CDFW will determine whether a Lake and Streambed Alteration (LSA) Agreement is required prior to conducting proposed activities. An LSA Notification shall include the following: 1) an analysis to demonstrate that concrete-lined or soft-bottom channels would not be impaired (e.g., aggraded, incised, increased suspended sediment), 2) a hydrological evaluation of the 100, 50, 25, 10, 5, and 2-year frequency storm event for existing and proposed conditions, 3) whether dewatering/diversion of water may be necessary, and (if applicable) 4), an analysis of whether diversion structures would impact stormwater and dry season water flow, and the extent of those impacts, during the wet season (November through March), dry season (April through October), and both above-average and below-average water year.

**Recommendation:** CDFW's issuance of an LSA Agreement for project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the CEQA document from a lead agency for a project. To minimize additional requirements by CDFW pursuant to Fish and Game Code section 1600 *et seq.* and/or under CEQA, the CEQA document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSA Agreement.

To compensate for any on- and off-site impacts to riparian resources, additional mitigation conditioned in any LSA Agreement may include the following: erosion and pollution control measures, avoidance of resources, protective measures for downstream resources, on- and/or off-site habitat creation, enhancement or restoration, and/or protection, and management of mitigation lands in perpetuity.

#### **Comment #6: Impacts on Riparian Habitat**

**Issue:** The Project may impact riparian habitat.

**Specific impacts:** The Project may result in temporary or permanent loss of riparian resources.

**Why impacts would occur:** According to CNDDB, areas within and adjacent to the Project boundary contain riparian vegetation communities. This includes sycamore alder riparian woodland, Riversidean alluvial fan sage scrub, and coast live oak riparian forest. In addition, the BRA identifies scale broom scrub (*Lepidospartum squamatum*), laurel sumac scrub (*Artemesia/Eriogonum/Malosma*) mosaic and coast live oak woodland (*Quercus agrifolia*) alliances on site at TCSG and SASG. Moreover, the [California Natural Communities List](#) designates scale broom scrub as a sensitive alliance. Some or all of these vegetation communities could be completely removed during project construction and activities, especially

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with the creation of new spreading grounds. This could result in temporary or permanent loss of riparian habitat. Vegetation communities may also be impacted through changes to hydrology (e.g., amount of flow) and hydraulics (e.g., wetted perimeter and depth). These changes may occur if a project modifies the channel, installs diversion structures, or expands recharge basins. Increased sediment deposition can bury seedlings and saplings of riparian trees, resulting in increased mortality of new recruits (Kui and Stella 2016).

**Evidence impacts would be significant:** Over 90 percent of southern California's coastal riparian habitat have been lost (USACE 2015). The remaining fragments of riparian habitat contribute significantly to the integrity of regional hydrologic connectivity, biodiversity, and habitat connectivity and wildlife movement between significant ecological areas, including the nationally significant San Gabriel Mountains National Monument (USACE 2015). Therefore, loss of remaining riparian habitat could affect regional hydrologic, habitat, and wildlife connectivity, and increase threats/stressors on regional biodiversity. Per CEQA Guidelines section 15065(a), a project may have a significant effect on biological resources if the project substantially reduces the habitat of a fish or wildlife species; threatens to eliminate a plant community; or has the potential to restrict the range of an endangered, rare, or threatened species.

#### **Recommended Potentially Feasible Mitigation Measure(s):**

**Mitigation Measure:** CDFW recommends that there be no net loss of riparian habitat within the Project boundary. Mitigation for impacts to riparian habitat should be provided within the Project boundary or at a CDFW approved mitigation bank. Compensatory mitigation should increase if a project would result in permanent loss of riparian habitat within a contiguous riparian corridor or loss of an isolated, remnant habitat patch. Mitigation should increase if a project would impact a riparian vegetation community considered rare in the State (i.e., S1, S2, or S3). Mitigation should further increase if the riparian habitat is considered very threatened or threatened (i.e., 0.1, 0.2). Mitigation should further increase if the riparian habitat impacted supports special status species, specifically obligate riparian breeders (e.g., Coastal California gnatcatcher (*Poliophtila californica californica*)). Mitigation should replace the same vegetation association/alliance that was impacted.

#### **Comment #7: California Species of Special Concern**

**Issue:** The Project may impact California Species of Special Concern (SSC). According to Table 2 of the BRA, the Project area has the potential to support SSC, which includes two avian species, one fish, four amphibians, five reptiles, and six mammals.

**Specific impacts:** Project construction and activities, directly or through habitat modification, may result in direct injury or mortality (trampling, crushing), reduced reproductive capacity, population declines, or local extirpation of an SSC. Temporal or permanent loss of foraging, breeding, nesting, or nursery habitat for an SSC may occur.

**Why impacts would occur:** Mitigation Measure BIO-3 of the DPEIR includes the need for biological resource assessments for "future projects on sites not identified in this [DP]EIR and occurring within an undeveloped area." While CDFW concurs that such assessments are necessary, there is concern over the lack of specifics a "mitigation strategy" would include in the event an SSC is detected during the assessment. Typical compensatory mitigation includes the purchase of land consisting of suitable habitat and/or individuals of the impacted species. There

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is no discussion of whether the mitigation strategy will include preservation, enhancement, restoration, or other mitigation activities to offset impacts to sensitive species and habitats. Mitigation measures should be adequately discussed and the basis for setting a particular measure should be identified [CEQA Guidelines, § 15126.4(a)(1)(B)]. The DPEIR does not provide enough information regarding the appropriate avoidance and minimization measures to facilitate meaningful public review and comment on the appropriateness of BIO-3. Additionally, all subsequent projects would have a cumulative impact on biological resources over the life of the Project. Therefore, it is unclear how the mitigation strategy would be developed in order to reduce impacts to biological resources to less than significant.

More specifically, impacts to an SSC could result from ground-disturbing (e.g., staging, mobilization, demolition, and grading) activities, vegetation removal, increased noise disturbances, light, human activity, and dust. All of these impacts should be addressed in the mitigation strategy.

**Evidence impact would be significant:** A [California Species of Special Concern](#) is a species, subspecies, or distinct population of an animal native to California that currently satisfies one or more of the following (not necessarily mutually exclusive) criteria:

- is extirpated from the State or, in the case of birds, is extirpated in its primary season or breeding role;
- is listed as ESA-, but not CESA-, threatened, or endangered; meets the State definition of threatened or endangered but has not formally been listed;
- is experiencing, or formerly experienced, serious (noncyclical) population declines or range retractions (not reversed) that, if continued or resumed, could qualify it for State threatened or endangered status; and/or,
- has naturally small populations exhibiting high susceptibility to risk from any factor(s), that if realized, could lead to declines that would qualify it for CESA threatened or endangered status (CDFW 2021a)

CEQA provides protection not only for CESA-listed species, but for any species including but not limited to SSC which can be shown to meet the criteria for State listing. These SSC meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15380). Therefore, take of SSC could require a mandatory finding of significance (CEQA Guidelines, § 15065). Inadequate avoidance and mitigation measures will result in the Project continuing to have a substantial adverse direct and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species by CDFW.

#### **Recommended Potentially Feasible Mitigation Measure(s):**

When preparing a mitigation strategy for review and approval, CDFW recommends including the following measures, at a minimum, to reduce impacts to less than significant.

**Mitigation Measure #1:** If impacts are unavoidable, wildlife should be protected, allowed to move away on its own (noninvasive, passive relocation), or relocated to adjacent appropriate habitat on site or to suitable habitat adjacent to the project area. SSC should be captured only by a qualified biologist with proper handling permits. The qualified biologist should prepare a species-specific list (or plan) of proper handling and relocation protocols and a map of suitable and safe relocation areas. A relocation plan should be prepared prior to implementing any

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Project-related ground-disturbing activities and vegetation removal.

While relocation is an option for mitigating impacts, it may not fully account for impacts to an SSC, such as loss of individuals, loss of habitat, or loss of natal dens/middens/burrows. Capturing, handling, or relocation are acts that may have multiple unintended negative consequences, including increased stress and mortality of relocated animals, negative impacts on resident animals at release sites, increased conflicts with human interests, and the spread of diseases. Attempts to avoid impacts to SSC should be the first option. Seeking a Scientific Collection Permits (see Mitigation Measure #2 below) in order to trap and relocate individuals should only be done if impacts cannot be avoided.

**Mitigation Measure #2:** Handling and relocation of wildlife, including SSC, may be required. If so, Pursuant to the [California Code of Regulations, title 14, section 650](#), the lead agency/qualified biologist should obtain appropriate handling permits to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with Project construction and activities. Please visit CDFW's [Scientific Collection Permits](#) webpage for information (CDFW 2021b). An LSA Agreement may provide similar take or possession of species as described in the conditions of the Agreement.

CDFW has the authority to issue permits for the take or possession of wildlife, including mammals; birds, nests, and eggs; reptiles, amphibians, fish, plants; and invertebrates (Fish & G. Code, §§ 1002, 1002.5, 1003). Effective October 1, 2018, a Scientific Collecting Permit is required to monitor project impacts on wildlife resources, as required by environmental documents, permits, or other legal authorizations; and, to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with otherwise lawful activities (Cal. Code Regs., tit. 14, § 650).

**Mitigation Measure #3:** CDFW recommends providing compensatory mitigation for temporary and/or permanent loss of any habitat supporting SSC. There should be no net loss of habitat supporting SSC within the Project boundary. Compensatory mitigation for should be provided within the Project boundary. Compensatory mitigation should be provided at no less than 2:1. Mitigation should provide upland and/or aquatic habitat (depending on the species), refugia, and habitat structures that supports that species (e.g., woody material, rocks, brush piles, pools, burrows). Any proposed mitigation area/plan should include a discussion on the territory size; nesting, breeding, foraging, and refuge, locations, invasive, non-native plant and wildlife species present, food availability, and how all life cycle functions will be mitigated. Mitigation for impacts to an SSC should adhere to CDFW and/or USFWS established protocol/guidelines if available.

### **Comment #8 Tree Removal**

**Issue:** The DPEIR indicates projects may require tree trimming or removal.

**Specific Impact:** Project activities that result in the removal of trees may cause temporary or permanent impacts to wildlife that utilize the tree as habitat. In addition, native tree species could be removed, causing further declines in native vegetation.

**Why impact would occur:** As written, BIO-1 only addresses "heritage trees". This term is not defined in relation to the DPEIR, so it is unknown what trees would fall under BIO-1. Therefore, there would be a net loss of trees that do not fall under "heritage tree" classification. Moreover,

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tree removal may result in temporary or permanent losses to bird or bats that may utilize the tree as habitat.

**Evidence Impact would be significant:** Any type of trees on site may provide adequate habitat for nesting birds and roosting bats. For tree species like coast live oak, wildlife, such as squirrels, magpies, scrub jays and other bird species, depend on the tree for an important food source (Steinberg 2002). Additionally, removal of trees on site may temporarily or permanently impact available habitat for wildlife in the area.

#### **Recommended Potentially Feasible Mitigation Measure(s):**

**Mitigation Measure:** The Project area is partially located in the City of La Verne. Therefore, in order to ensure no net loss of native trees, CDFW recommends following the City of La Verne *General Plan Update Conservation and Natural Resources Background Report* replacement ratio (at a minimum) for the removal of any mature tree which states, "Require mature trees to be replaced at the four-to-one ratio". CDFW recommends this replacement include a combination of native trees and/or appropriate understory and lower canopy plantings. Replacement oaks should be of the same species and come from nursery stock grown from locally sourced acorns, or from acorns gathered locally, preferably from the same watershed in which they were planted. CDFW recommends replacing nonnative trees with native trees.

#### **Comment #9: Tree Diseases, Pests, and Pathogens**

**Issue:** The Project may remove trees and spread material infected with invasive tree diseases, pests, and pathogens.

**Specific impacts:** The Project may spread tree insect pests and diseases into areas not currently exposed to these stressors. This could result in expediting the loss of native trees and plant communities. Loss of trees may result in loss of foraging and perching habitat for small mammals, birds, and raptors.

**Why impacts would occur:** The Project may remove trees that could host diseases and pests. One such pathogen is sudden oak death. Sudden oak death has become the most common cause of mortality of oak (*Quercus* genus) and other native trees (Phytosphere 2015). Mortality rates of oak trees are greater than 50 percent in some areas impacted by sudden oak death (Phytosphere 2012). Tree dieback can have cascading impacts on the habitat and ecosystem, particularly avian distribution and abundance (Monahan and Koenig 2006). Another pest is the polyphagous shot hole borer, which hosts on many native trees species that include box elder (*Acer negundo*), California sycamore (*Platanus racemosa*), willows (*Salix* genus), oaks, cottonwoods (*Populus* genus), and alders (*Alnus* genus) (Calinvasives 2021). Diseases such as sudden oak death can spread via equipment and transport of infected material. These fragments can be spread to new locations if equipment and tools are not disinfected or cleaned before moving to the next work location. Infected material that is transported off site for disposal may expose trees and plant communities to pest and disease. This could result in expediting the loss of California sycamore, oak trees, and other native trees and plant communities within and adjacent to a project area.

**Evidence impacts would be significant:** The Project may have a substantial adverse effect on any sensitive natural communities identified in local or regional plans, policies, and regulations



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or by the CDFW. The Project may result in a substantial adverse effect, either directly or through habitat modifications, on species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by CDFW that are dependent on woodlands susceptible to insect and disease pathogens.

### **Recommended Potentially Feasible Mitigation Measure(s):**

**Mitigation Measure:** CDFW recommends that the subsequent CEQA document include a measure to mitigate the spread of invasive pests and diseases by implementing the following:

- 1) Prior to tree removal, a certified arborist should evaluate trees for infectious tree diseases including but not limited to: [sudden oak death](#) (*Phytophthora ramorum*), [thousand canker fungus](#) (*Geosmithia morbida*), [polyphagous shot hole borer](#) (*Euwallacea* spp.), and [goldspotted oak borer](#) (*Agrilus auroguttatus*) (TCD 2021; UCANR 2021; Phytosphere Research 2012; UCIPM 2013).
- 2) If a certified arborist determines trees are impacted by infectious pests or diseases, the certified arborist should prepare an Infectious Tree Disease Management Plan or develop a detailed, robust, enforceable, and feasible list of preventative measures. A plan/list should provide measures relevant for each tree pest or disease observed. To avoid the spread of infectious tree pests and diseases, infected trees should not be transported from a project area without first being treated using best available management practices described Infectious Tree Disease Management Plan or list of preventative measures.
- 3) If possible, all tree material, especially infected tree material, should be left on site. The material could be chipped for use as ground cover or mulch. Pruning and power tools should be cleaned and disinfected before use to prevent introducing pathogens from known infested areas, and after use to prevent spread of pathogens to new areas.

### **Comment #10: In-lieu Fees**

**Issue:** Mitigation Measure BIO-4 *Wetland Permits* mentions an “in lieu fee program” as an option for offsite replacement of wetland resources.

**Specific impacts:** Impacting wetland resources has the potential to impact directly, or indirectly through habitat loss, sensitive, special status, threatened, and/or endangered plants, wildlife, and vegetation communities. In addition, the DPEIR does not provide sufficient information for CDFW to evaluate the adequacy of in-lieu fees to offset the cumulative loss of biological resources associated with wetlands.

**Why impacts would occur:** It is unclear how proposed payments would be sufficient to offset impacts associated with the Project. Typical compensatory mitigation includes the purchase of land consisting of suitable habitat and/or individuals of the impacted species. CDFW is concerned that an in-lieu fee would not provide enough funding for preservation, enhancement, restoration, or other mitigation activities to offset impacts to sensitive species and habitats.

The DPEIR does not explain or make a connection as to why in-lieu fee is adequate to offset Project impacts so that the Project would have no impacts. The DPEIR does not discuss or provide the following information:

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- 1) Whether the in-lieu fee is going towards an established program.
- 2) How that program is designed to (and will) mitigate the effects at issue at a level meaningful for purposes of CEQA.
- 3) What the in-lieu fee would acquire. It is unclear if the in-lieu fee would be used to acquire land for preservation, enhancement, and/or restoration purposes, or if the in-lieu fee would be used to purchase credits at a mitigation bank, or none of the above.
- 4) What biological resources would the in-lieu fee protect/conserves.
- 5) Why the in-lieu fee is appropriate for mitigating cumulative loss of biological resources in the Project area.
- 6) How the in-lieu fee is sufficient to purchase land or credits at a mitigation bank.
- 7) Where the project proponent may acquire land or purchase credits at a mitigation bank so that the in-lieu fee would offset Project impacts on biological resources in the Project area.
- 8) When the project proponent would use the fee in the Project area. Mitigation payment does not equate to mitigation if the funds are not being used. Also, temporal impacts on biological resources may occur as long as the project proponent fails to implement its proposed mitigation.
- 9) How the project proponent would commit to the project to paying the in-lieu fee. For example, when would the project proponent require payment from the project applicant, how long would the project applicant have to pay the fee, and what mechanisms would project proponent implement to ensure the fee is paid? Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments (CEQA Guidelines, § 15126.4).
- 10) What performance measures the proposed mitigation would achieve (CEQA Guidelines, § 15126.4).
- 11) What type(s) of potential action(s) that can feasibly achieve those performance standards (CEQA Guidelines, § 15126.4); and,
- 12) How the in-lieu fee would be adequate such that no impacts would occur as a result of the Project.

**Evidence impacts would be significant:** Without identifying when mitigation activities will be implemented, additional temporal impacts to biological resources would occur. Inadequate avoidance and mitigation measures will result in the Project continuing to have a substantial adverse direct and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status in local or regional plans, policies, or regulations, or by CDFW or USFWS. This Project may have the potential to reduce the habitat of rare plants or wildlife; cause rare plants or wildlife population to drop below self-sustaining levels; threatened to eliminate a plant or animal community; and substantially reduce the number or restrict the range of an endangered, rare, or threatened species [CEQA Guidelines, § 15065(a)(1)]. Additionally, this Project has possible environmental effects that are cumulatively considerable [CEQA Guidelines, § 15065(a)(3)].

**Recommended Potentially Feasible Mitigation Measure(s):**

**Recommendation #1:** CDFW recommends the subsequent environmental document provide adequate, complete, and good-faith disclosure of information that would address the following in relation to the Project:

- 1) Whether the in-lieu fee is going towards an established program.

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- 2) How the program is designed to (and will) mitigate the effects at issue at a level meaningful for purposes of CEQA.
- 3) What the in-lieu fee would acquire.
- 4) What biological resources would the in-lieu fee protect/conserves.
- 5) Why the in-lieu fee is appropriate for mitigating the cumulative loss of biological resources.
- 6) Why the in-lieu fee is sufficient to purchase land or credits at a mitigation bank.
- 7) Where the project proponent may acquire land or purchase credits at a mitigation bank.
- 8) When the project proponent would use the in-lieu fee; and,
- 9) How the in-lieu fee would be adequate such that no impacts would occur as a result of the Project.

The project proponent should provide any technical data, maps, plot plans, diagrams, and similar relevant information in addressing these concerns (CEQA Guidelines, § 15147).

**Recommendation #2:** CDFW recommends that the project proponent provide a discussion describing how it intends to commit to mitigation via the in-lieu fee. For example, the project proponent should provide specifics as to when would the project proponent require payment from the project applicant, how long would the project applicant have to pay the fee, what mechanisms would the project proponent implement to ensure the fee is paid, and when the project proponent would use the project's payment for mitigation. Also, the project proponent should provide specific performance standards and actions to achieve those performance standards.

**Recommendation #3:** CDFW recommends that the project proponent recirculate the DPEIR for more meaningful public review and assessment of the project proponent's in-lieu fee. Additionally, the Project proponent should recirculate the DPEIR if the proposed mitigation measure (i.e., in-lieu fee) would not reduce potential effects to less than significant and new measures must be required [CEQA Guidelines, § 15073.5(b)(2)].

### **Additional Recommendations**

Nesting Birds. The Project's proposed Mitigation Measure BIO-2, *Nesting Birds*, as it is currently proposed, Project activities occurring during the bird and raptor breeding and nesting season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment. CDFW recommends TVMWD amend Mitigation Measure BIO-3 to exclude the ~~strike through~~ and include the underlined language:

"[...] The nesting season generally extends from February 1 through ~~August 31~~ September 15 (as early as January 1 for some raptors), but it can vary slightly from year to year based on seasonal weather conditions. If ground disturbance and vegetation removal cannot occur outside of the qualified Avian Biologist's-verified nesting season, a preconstruction clearance survey for nesting birds shall be conducted ~~within 30 days~~ within a 500-foot radius of the construction site. Based on local conditions, the nesting bird surveys should be conducted at appropriate nesting times and concentrate on potential roosting or perch sites. Surveys shall be conducted no more than 7 days prior to the ~~of the~~ start of any construction. If Project activities are delayed or suspended for more than 7 days during the breeding season, repeat surveys should be repeated. If no active nests are found, no further action would be required.[...]"

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Rare Plant Surveys. The Project's proposed Mitigation Measure BIO-3, *Additional Biological Resources Assessments*, as it is currently proposed, may result in missed detections of rare plants not previously known to occur at a project site. This may result in population declines or local extirpation of a rare plant species, as there is potential for approximately 24 species of rare plants to occur within the Project boundary, according to BRA Table 2. CDFW recommends TVMWD amend Mitigation Measure BIO-3 to include the underlined language:

"[...] a biological assessment shall be made, while identifying and mapping all vegetation communities and land-cover types, of the selected or potential sites to determine if sensitive biological resources (listed, candidate, or other special-status plants and/or wildlife, sensitive plant community, sensitive species, jurisdiction waters) are present. To determine presence/absence or accurately identifying rare plants, a qualified botanist shall conduct multiple rare plant surveys throughout the growing season for any given year. Surveys shall occur during the time of year when rare plants are more likely to be visually detectable. Rare plant surveys proceeding after a low water year shall be supplemented with one or two additional rare plant surveys over a number of years depending on the rare plant species, annual weather patterns, and whether the project area was recently disturbed (e.g., fire).

Rodenticides. CDFW recommends TVMWD prevent the use of second-generation anticoagulant rodenticides on any project associated with the Project.

Data. CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database [i.e., California Natural Diversity Database (CNDDDB)] which may be used to make subsequent or supplemental environmental determinations [Pub. Resources Code, § 21003, subd. (e)]. Accordingly, CDFW recommends that the subsequent CEQA document include measures where lead agencies of individual projects tiering from the subsequent CEQA document report any special status species detected during preparation of project-level environmental impact analyses/environmental documents. Special status species information should be submitted to the CNDDDB by completing the [Online Field Survey Form](#) (CDFW 2021d). The lead agency should ensure all pertinent data has been properly submitted, with all applicable data fields filled out, prior to finalizing/adopting an environmental document. The lead agency should provide CDFW with confirmation of data submittal.

Mitigation and Monitoring Reporting Plan. CDFW recommends TVMWD update the Project's proposed Biological Mitigation Measures and condition the environmental document to include mitigation measures recommended in this letter. CDFW provides comments to assist project proponents in developing mitigation measures that are specific, detailed (i.e., responsible party, timing, specific actions, location), and clear in order for a measure to be fully enforceable and implemented successfully via a mitigation monitoring and/or reporting program (CEQA Guidelines, § 15097; Pub. Resources Code, § 21081.6). TVMWD is welcome to coordinate with CDFW to further review and refine the Project's mitigation measures. Per Public Resources Code section 21081.6(a)(1), CDFW has provided TVMWD with a summary of our suggested mitigation measures and recommendations in the form of an attached Draft Mitigation and Monitoring Reporting Plan (MMRP; Attachment A).

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## Filing Fees

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required for the underlying Project approval to be operative, vested, and final (Cal. Code Regs., tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089).

## Conclusion

We appreciate the opportunity to comment on the Project to assist Three Valley Municipal Water District in adequately analyzing and minimizing/mitigating impacts to biological resources. CDFW requests an opportunity to review and comment on any response that TVMWD has to our comments and to receive notification of any forthcoming hearing date(s) for the Project [CEQA Guidelines, § 15073(e)]. If you have any questions or comments regarding this letter, please contact Felicia Silva, Environmental Scientist, at (562) 292-8105 or by email at [Felicia.Silva@wildlife.ca.gov](mailto:Felicia.Silva@wildlife.ca.gov)

Sincerely,

DocuSigned by:  
  
Erinn Wilson-Olgin  
Environmental Program Manager I

ec: CDFW

Erinn Wilson-Olgin – [Erinn.Wilson-Olgin@wildlife.ca.gov](mailto:Erinn.Wilson-Olgin@wildlife.ca.gov)  
Victoria Tang – Los Alamitos – [Victoria.Tang@wildlife.ca.gov](mailto:Victoria.Tang@wildlife.ca.gov)  
Ruby Kwan-Davis – Los Alamitos – [Ruby.Kwan-Davis@wildlife.ca.gov](mailto:Ruby.Kwan-Davis@wildlife.ca.gov)  
Felicia Silva – Los Alamitos – [Felicia.Silva@wildlife.ca.gov](mailto:Felicia.Silva@wildlife.ca.gov)  
Frederic Reiman – Los Alamitos – [Frederic.Reiman@wildlife.ca.gov](mailto:Frederic.Reiman@wildlife.ca.gov)  
Susan Howell – San Diego – [Susan.Howell@wildlife.ca.gov](mailto:Susan.Howell@wildlife.ca.gov)  
CEQA Program Coordinator – Sacramento – [CEQACommentLetters@wildlife.ca.gov](mailto:CEQACommentLetters@wildlife.ca.gov)

State Clearinghouse - [state.clearinghouse@opr.ca.gov](mailto:state.clearinghouse@opr.ca.gov)

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Attachment A: Draft Mitigation and Monitoring Reporting Plan

CDFW recommends the following language to be incorporated into a future environmental document for the Project.

<b>Biological Resources (BIO)</b>			
<b>Mitigation Measure (MM) or Recommendation (REC)</b>		<b>Timing</b>	<b>Responsible Party</b>
<b>MM-BIO-1-GDEs</b>	Project proponents shall determine the following in areas identified for projects and any area sited for individual subsequent projects: 1) determine which proposed project actions are most likely to impact GDEs based on basin hydrology, 2) deploy representative groundwater monitoring stations within GDEs to track groundwater levels and vegetation responses overtime, 3) establish thresholds/triggers for adaptive management to respond to stressed vegetation as needed.	Preparation of project-level CEQA document/ prior to finalizing project-level CEQA document	Project-level lead agency
<b>MM-BIO-2-GDEs</b>	If habitat benefits are expected based on Project development, through the use of the monitoring stations mentioned in the previous mitigation measure, they shall be monitored for sustainable groundwater levels and the GDE response. If GDEs display a positive response to projects, then Project proponents shall maintain groundwater management activities to allow GDEs to sustain that beneficial level.	Preparation of project-level CEQA document/ prior to finalizing project-level CEQA document	Project-level lead agency
<b>Rec-1-GDEs</b>	The subsequent CEQA document shall verify the GDE existence, identify vegetated communities (e.g. species compositions), and associated rooting depths/optimal groundwater table elevations. This verification should be conducted for areas identified for projects and any area sited for individual subsequent projects.	Preparation of project-level CEQA document/ prior to finalizing project-level CEQA document	Project-level lead agency



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<b>MM-BIO-3- Impacts on California Fully Protected Birds</b>	Impacts on California Fully Protected birds shall be avoided by implementing a minimum 0.5-mile no-disturbance buffer around each nest of a California Fully Protected bird. A qualified biologist shall develop a robust avoidance, buffer, and demarcation plan specifically for California Fully Protected birds depending on project-level specifics [e.g., project area, species, life stages(s), scope of work].	Prior to/During project ground-disturbing activities	Project-level lead agency
<b>MM-BIO-4- Impacts on California Fully Protected Birds</b>	Individual subsequent projects shall notify and consult with CDFW if a Fully Protected species nest is detected within a project area.	Prior to project ground-disturbing activities	Project-level lead agency
<b>MM-BIO-5-SBKR</b>	<p>Project proponents shall retain a qualified biologist with experience surveying for SBKR. Prior to commencing any Project-related ground-disturbing activities, the qualified biologist shall conduct surveys for where suitable habitat is present. Pre-construction surveys shall be conducted no more than one week prior to initial Project-related ground-disturbing activities. Project related activities include construction, equipment and vehicle access, parking, and staging. Focused surveys shall consist of appropriate time of day surveys, no more than one month from the start of any ground-disturbing activities. The surveys shall include mapping of current locations of any SBKR for avoidance and relocation efforts and to assist construction monitoring efforts. The survey shall be conducted so that 100 percent coverage of the Project site and surrounding areas is achieved.</p> <p>If SBKR are detected, the qualified biologist shall use visible flagging to mark the location where SBKR was detected. The qualified biologist shall take a photo of each location, map each location, and provide the specific species detected at that location. The qualified biologist shall provide a summary report of SBKR surveys to TVMWD/project proponent before any Project-related ground-disturbing activities. The CDFW shall be notified and</p>	Prior to project ground-disturbing activities	Project-level lead agency

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	consulted regarding the presence of any special-status wildlife species found on site during surveys. The USFWS shall also be notified. Additional avoidance and minimization measures may need to be developed with CDFW/USFWS.		
<b>MM-BIO-6-SBKR</b>	<p>If “take” or adverse impacts to SBKR cannot be avoided during any individual subsequent project activities or over the life of the Project, project proponents shall apply for a CESA Incidental Take Permit (ITP), pursuant to Fish and Game Code section 2080 <i>et seq.</i> Early consultation is encouraged, as significant modification to a Project and mitigation measures may be required to obtain a CESA Permit. The Project proponent shall seek appropriate take authorization under CESA prior to implementing the Project. Appropriate authorization from CDFW may include an ITP or a consistency determination in certain circumstances. CDFW may require separate CEQA documentation for the issuance of an ITP unless the Project CEQA document addresses all Project impacts to CESA-listed species and specifies a mitigation monitoring and reporting program that will meet the requirements of an ITP. For these reasons, biological mitigation monitoring and reporting proposals shall be of sufficient detail and resolution to satisfy the requirements for a CESA ITP.</p>	Prior to project ground-disturbing activities	Project-level lead agency
<b>MM-BIO-7-Crotch’s bumble bee</b>	<p>Due to suitable habitat within the Project boundary, individual subsequent projects shall analyze potential impacts on Crotch’s bumble bee. If suitable habitat is on subsequent project sites, within one year prior to vegetation removal and/or grading for any individual subsequent projects, a qualified entomologist familiar with the species behavior and life history shall conduct surveys to determine the presence/absence of Crotch’s bumble bee. Surveys shall be conducted during flying season when the species is most likely to be detected above ground, between March 1 to September 1 (Thorp et al. 1983). Survey results, including negative findings, shall be submitted to CDFW prior to implementing Project-related ground-disturbing activities. At minimum, a survey report shall provide the following:</p>	Prior to project ground-disturbing activities	Project-level lead agency

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	<p>a) A description and map of the survey area, focusing on areas that could provide suitable habitat for Crotch's bumble bee. CDFW recommends the map show surveyor(s) track lines to document that the entire site was covered during field surveys.</p> <p>b) Field survey conditions that shall include name(s) of qualified entomologist(s) and brief qualifications; date and time of survey; survey duration; general weather conditions; survey goals, and species searched.</p> <p>c) Map(s) showing the location of nests/colonies.</p> <p>d) A description of physical (e.g., soil, moisture, slope) and biological (e.g., plant composition) conditions where each nest/colony is found. A sufficient description of biological conditions, primarily impacted habitat, shall include native plant composition (e.g., density, cover, and abundance) within impacted habitat (e.g., species list separated by vegetation class; density, cover, and abundance of each species).</p>		
<b>MM-BIO-8-Crotch's bumble bee</b>	If Crotch's bumble bee is detected, the subsequent CEQA document shall require project proponents, in consultation with a qualified entomologist, to develop a plan to fully avoid impacts to Crotch's bumble bee. The plan shall include effective, specific, enforceable, and feasible measures. An avoidance plan shall be submitted to the project proponent prior to implementing Project-related ground-disturbing activities and/or vegetation removal where there may be impacts to Crotch's bumble bee.	Prior to project ground-disturbing activities	Project-level lead agency
<b>MM-BIO-9-Crotch's bumble bee</b>	If Crotch's bumble bee is detected and if impacts to Crotch's bumble bee cannot be feasibly avoided during Project construction and activities, project proponents /qualified entomologist shall coordinate with CDFW to obtain appropriate handling permits for incidental take of Crotch's bumble bee and provide appropriate mitigation for impacts to Crotch's bumble bee habitat. The project	Prior to project ground-disturbing activities	Project-level lead agency

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	<p>proponents shall mitigate for impacts to Crotch’s bumble bee habitat at a ratio comparable to the Project’s level of impacts.</p>		
<p><b>MM-BIO-10-                  Impacts of                  Water Diversion                  on Streams</b></p>	<p>Individual subsequent projects shall analyze potential impacts on biological resources resulting from proposed water diversion. At a minimum, an analysis and shall include:  <i>Study Reach</i></p> <ol style="list-style-type: none"> <li>1) A study reach that includes an additional length of channel downstream from a project site. The additional study reach shall extend a minimum of 1 mile downstream, or to the extent of the LA River downstream that could be expected to be affected similarly by a proposed project (hydraulic and ecological zones), or an appropriate distance determined by both a qualified biologist and hydrologist, whichever is greater.</li> </ol> <p><i>Changes to Hydrology and Hydraulics</i></p> <ol style="list-style-type: none"> <li>1) Under pre-project (i.e., baseline) conditions, the volume of water flow from both the project area and study reach during a) the wet (November through March); b) the dry season (April through October); and c) above-average and below-average water year (i.e., wet season/above-average water year, wet season/below-average water year, dry season/above-average water year, and dry season/below-average water year). The analysis shall clearly define above-average or below-average rainfall year.</li> <li>2) Under proposed project conditions, the percent reduction in flow from both the project area and study reach for a wet season/above-average water year, wet season/below-average water year, dry season/above-average water year, and dry season/below-average water year.</li> <li>3) A quantitative analysis comparing the flow from the project area and other tributaries into the study reach, and their relative contribution to the hydrograph of the study reach.</li> <li>4) An analysis of potential project-related changes to river hydraulics in both concrete-lined and soft-bottom reaches. This includes water depth (percent change), wetted</li> </ol>	<p>Preparation of project-level CEQA document/ prior to finalizing project-level CEQA document</p>	<p>Project-level lead agency</p>

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	<p>perimeter (acres gained/lost), and velocity (percent change).</p> <p><i>Biological Resources Impact Assessment</i></p> <ol style="list-style-type: none"><li>1) A map of plant communities and important bird foraging and nesting habitat occurring in the study reach. Plant communities shall be mapped at the alliance/association level using the <a href="#">Manual of California Vegetation</a>, second edition. An updated and thorough floristic-based assessment of plant communities shall follow CDFW's <a href="#">Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities</a>.</li><li>2) A comprehensive list of sensitive and special status plant and wildlife species, and sensitive plant communities, occurring in the study reach. For each biological resource, provide:<ol style="list-style-type: none"><li>a. A summary of species-specific habitat requirements;</li><li>b. A discussion as to how the species or plant community may be significantly impacted directly or indirectly through habitat modification, as result of changes to hydrology (reduced flow) and hydraulics (water depth, wetted perimeter, velocity); and,</li><li>c. A quantitative analysis and/or adequate discussion to evaluate whether the project would result in those significant impacts.</li></ol></li><li>3) A discussion of whether construction, operations, and maintenance of diversion devices such as rubber dams, pipes, and tunnels, would have direct and/or indirect, permanent or temporal impact on biological resources.</li><li>4) An adequate discussion to address how the project may potentially affect on-going habitat recovery and restoration efforts.</li><li>5) An adequate discussion of project-related impacts on biological resources in relation to cumulative flow</li></ol>		
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	reductions.		
<b>MM-BIO-11- Impacts of Water Diversion on Streams</b>	For projects proposing to divert water, individual subsequent projects shall develop an Adaptive Management Plan that would reduce or suspend water diversion if at any point the project may impact biological resources downstream exceeding a defined threshold/trigger.	Prior to water diversion construction and activities	Project-level lead agency
<b>MM-BIO-12- Impacts of Water Diversion on Streams</b>	Project proponents shall provide a copy of the basis of water right (water right permit) by State Water Resources Control Board that authorizes the beneficial use of stormwater or dry weather flows diverted from streams. This information along with the LSA Notification would assist CDFW in assessing the need for an LSA Agreement. This will include documentation of water rights in a project-level CEQA document to ensure project budgets and timelines consider CDFW's regulatory process in the implementation of projects under the Six Basins Strategic Plan.	Prior to water diversion construction and activities	Project-level lead agency
<b>MM-BIO-13- Impacts of Water Diversion on Streams</b>	Mitigation Measure BIO-4, <i>Wetland Permits</i> , shall be modified to include the <u>underlined</u> language:  "Waters of the State or Waters of the U.S. the Watermaster Party undertaking a project shall consult with the regulatory agencies (USACE, RWQCB and CDFW) to determine if a CWA 404 permit, CWA 401 or a Streambed Alteration Agreement under Fish and Game Code 1602 are required prior to development. <u>Based on a notification pursuant to Fish and Game Code section 1602 and other information, CDFW will determine whether a Lake and Streambed Alteration (LSA) Agreement is required prior to conducting proposed activities. An LSA Notification shall include the following: 1) an analysis to demonstrate that concrete-lined or soft-bottom channels would not be impaired (e.g., aggraded, incised, increased suspended sediment), 2) a hydrological evaluation of the 100, 50, 25, 10, 5, and 2-year frequency storm event for existing and proposed conditions, 3) whether dewatering/diversion of water may be necessary, and (if applicable) 4), an analysis of whether diversion</u> "	Prior to water diversion construction and activities	Project-level lead agency

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	<u>structures would impact stormwater and dry season water flow, and the extent of those impacts, during the wet season (November through March), dry season (April through October), and both above-average and below-average water year.</u>		
<b>Rec-2- Impacts of Water Diversion on Streams</b>	<p>CDFW’s issuance of an LSA Agreement for project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the CEQA document from a lead agency for a project. To minimize additional requirements by CDFW pursuant to Fish and Game Code section 1600 <i>et seq.</i> and/or under CEQA, the CEQA document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSA Agreement.</p> <p>To compensate for any on- and off-site impacts to riparian resources, additional mitigation conditioned in any LSA Agreement may include the following: erosion and pollution control measures, avoidance of resources, protective measures for downstream resources, on- and/or off-site habitat creation, enhancement or restoration, and/or protection, and management of mitigation lands in perpetuity.</p>	Prior to water diversion construction and activities	Project-level lead agency
<b>MM-BIO-14- Impacts on Riparian Habitat</b>	<p>There shall be no net loss of riparian habitat within the Project boundary. Mitigation for impacts to riparian habitat shall be provided within the Project boundary or at a CDFW approved mitigation bank. Compensatory mitigation shall increase if a project would result in permanent loss of riparian habitat within a contiguous riparian corridor or loss of an isolated, remnant habitat patch. Mitigation shall increase if a project would impact a riparian vegetation community considered rare in the State (i.e. S1, S2, or S3). Mitigation shall further increase if the riparian habitat is considered very threatened or threatened (i.e., 0.1, 0.2). Mitigation shall further increase if the riparian habitat impacted supports special status species, specifically obligate riparian breeders (e.g.,</p>	Prior to project ground-disturbing activities	Project-level lead agency

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	Coastal CA gnatcatcher). Mitigation shall replace the same vegetation association/alliance that was impacted.		
<b>MM-BIO-15- Impacts on California Species of Special Concern</b>	If impacts are unavoidable, wildlife shall be protected, allowed to move away on its own (noninvasive, passive relocation), or relocated to adjacent appropriate habitat on site or to suitable habitat adjacent to the project area. SSC shall be captured only by a qualified biologist with proper handling permits. The qualified biologist shall prepare a species-specific list (or plan) of proper handling and relocation protocols and a map of suitable and safe relocation areas. A relocation plan shall be prepared prior to implementing any Project-related ground-disturbing activities and vegetation removal. Attempts to avoid impacts to SSC shall be the first option. Seeking a Scientific Collection Permits in order to trap and relocate individuals shall only be done if impacts cannot be avoided.	Prior to/During project ground-disturbing activities	Project-level lead agency
<b>MM-BIO-16- Impacts on California Species of Special Concern</b>	Appropriate handling permits to capture, temporarily possess, and relocate wildlife to avoid harm or mortality in connection with Project construction and activities shall be obtained.	Prior to project ground-disturbing activities	Project-level lead agency
<b>MM-BIO-17- Impacts on California Species of Special Concern</b>	Compensatory mitigation shall be provided for temporary and/or permanent loss of any habitat supporting SSC. There shall be no net loss of habitat supporting SSC within the Project boundary. Compensatory mitigation shall be provided within the project area. Compensatory mitigation shall be provided at no less than 2:1. Mitigation shall provide upland and/or aquatic habitat (depending on the species), refugia, and habitat structures that supports that species (e.g., woody material, rocks, brush piles, pools, burrows). Any proposed mitigation area/plan shall include a discussion on the territory size; nesting, breeding, foraging, and refuge, locations, invasive, non-native plant and wildlife species present, food availability, and how all life cycle functions will be mitigated. Mitigation for impacts to an SSC shall adhere to CDFW and/or USFWS established protocol/guidelines if available.	Prior to/During project ground-disturbing activities	Project-level lead agency



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<p><b>MM-BIO-18-Tree Removal</b></p>	<p>In order to ensure no net loss of native trees, the City of La Verne <i>General Plan Update Conservation and Natural Resources Background Report</i> replacement ratio (at a minimum) shall be required for the removal of any mature tree which states, “Require mature trees to be replaced at the four-to-one ratio”. This replacement shall include a combination of native trees and/or appropriate understory and lower canopy plantings. Replacement oaks should be of the same species and come from nursery stock grown from locally sourced acorns, or from acorns gathered locally, preferably from the same watershed in which they were planted. Nonnative trees shall be replaced with native trees..</p>	<p>Prior to/During project ground-disturbing activities</p>	<p>Project-level lead agency</p>
<p><b>MM-BIO-19-Tree Diseases, Pests, and Pathogens</b></p>	<p>The spread of invasive pests and diseases shall be mitigated by implementing the following:</p> <ol style="list-style-type: none"> <li>1) Prior to tree removal, a certified arborist shall evaluate trees for infectious tree diseases including but not limited to: <a href="#">sudden oak death</a> (<i>Phytophthora ramorum</i>), <a href="#">thousand canker fungus</a> (<i>Geosmithia morbida</i>), <a href="#">polyphagous shot hole borer</a> (<i>Euwallacea</i> spp.), and <a href="#">goldspotted oak borer</a> (<i>Agrilus auroguttatus</i>);</li> <li>2) If a certified arborist determines trees are impacted by infectious pests or diseases, the certified arborist shall prepare an Infectious Tree Disease Management Plan or develop a detailed, robust, enforceable, and feasible list of preventative measures. A plan/list shall provide measures relevant for each tree pest or disease observed. To avoid the spread of infectious tree pests and diseases, infected trees shall not be transported from a project area without first being treated using best available management practices described Infectious Tree Disease Management Plan or list of preventative measures.</li> <li>3) If possible, all tree material, especially infected tree material, shall be left on site. The material could be chipped for use as ground cover or mulch. Pruning and power tools shall be cleaned and disinfected before use to prevent</li> </ol>	<p>Prior to/During project construction activities</p>	<p>Project-level lead agency</p>

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	introducing pathogens from known infested areas, and after use to prevent spread of pathogens to new areas.		
<b>REC-3-In-lieu Fees</b>	<p>CDFW recommends the subsequent environmental document provide adequate, complete, and good-faith disclosure of information that would address the following in relation to the Project:</p> <ol style="list-style-type: none"> <li>1) Whether the in-lieu fee is going towards an established program;</li> <li>2) How the program is designed to (and will) mitigate the effects at issue at a level meaningful for purposes of CEQA;</li> <li>3) What the in-lieu fee would acquire;</li> <li>4) What biological resources would the in-lieu fee protect/conservate;</li> <li>5) Why the in-lieu fee is appropriate for mitigating the cumulative loss of biological resources;</li> <li>6) Why the in-lieu fee is sufficient to purchase land or credits at a mitigation bank;</li> <li>7) Where the project proponent may acquire land or purchase credits at a mitigation bank;</li> <li>8) When the project proponent would use the in-lieu fee; and,</li> <li>9) How the in-lieu fee would be adequate such that no impacts would occur as a result of the Project.</li> </ol> <p>The project proponent should provide any technical data, maps, plot plans, diagrams, and similar relevant information in addressing these concerns (CEQA Guidelines, § 15147).</p>	Prior to finalizing PEIR	TVMWD
<b>REC-4-In-lieu Fees</b>	CDFW recommends that the project proponent provide a discussion describing how it intends to commit to mitigation via the in-lieu fee. For example, the project proponent should provide specifics as to when would the project proponent require payment from the project applicant, how long would the project applicant have to pay the fee, what mechanisms would the project proponent	Prior to finalizing PEIR	TVMWD

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	implement to ensure the fee is paid, and when the project proponent would use the project’s payment for mitigation. Also, the project proponent should provide specific performance standards and actions to achieve those performance standards.		
<b>REC-5-In-lieu Fees</b>	CDFW recommends that the project proponent recirculate the DPEIR for more meaningful public review and assessment of the project proponent’s in-lieu fee. Additionally, the Project proponent should recirculate the DPEIR if the proposed mitigation measure (i.e., in-lieu fee) would not reduce potential effects to less than significant and new measures must be required [CEQA Guidelines, § 15073.5(b)(2)].	Prior to finalizing PEIR	TVMWD
<b>REC-6-Nesting Birds</b>	<p>The Project’s proposed Mitigation Measure BIO-2, <i>Nesting Birds</i>, as it is currently proposed, Project activities occurring during the bird and raptor breeding and nesting season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment. CDFW recommends TVMWD amend Mitigation Measure BIO-2 to exclude the strikethrough and include the <u>underlined</u> language:</p> <p>“[...] The nesting season generally extends from February 1 through <del>August 31</del> <u>September 15 (as early as January 1 for some raptors)</u>, but it can vary slightly from year to year based on seasonal weather conditions. If ground disturbance and vegetation removal cannot occur outside of the qualified Avian Biologist’s-verified nesting season, a preconstruction clearance survey for nesting birds shall be conducted within 30 days <u>within a 500-foot radius of the construction site. Based on local conditions, the nesting bird surveys should be conducted at appropriate nesting times and concentrate on potential roosting or perch sites. Surveys shall be conducted no more than 7 days prior to the of the start of any construction. If Project activities are delayed or suspended for more than 7 days during the breeding season, repeat surveys should be repeated.</u> If no active nests are found, no further action would be required.[...]”</p>	Prior to finalizing PEIR /During/After project	TVMWD/project-level lead agency

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<p><b>REC-7-Rare Plant Surveys</b></p>	<p>The Project's proposed Mitigation Measure BIO-3, <i>Additional Biological Resources Assessments</i>, as it is currently proposed, may result in missed detections of rare plants not previously known to occur at a project site. This may result in population declines or local extirpation of a rare plant species, as there is potential for approximately 24 species of rare plants to occur within the Project boundary, according to BRA Table 2. CDFW recommends TVMWD amend Mitigation Measure BIO-3 to include the <u>underlined</u> language:</p> <p><u>"[...] a biological assessment shall be made, while identifying and mapping all vegetation communities and land-cover types, of the selected or potential sites to determine if sensitive biological resources (listed, candidate, or other special-status plants and/or wildlife, sensitive plant community, sensitive species, jurisdiction waters) are present. To determine presence/absence or accurately identifying rare plants, a qualified botanist shall conduct multiple rare plant surveys throughout the growing season for any given year. Surveys shall occur during the time of year when rare plants are more likely to be visually detectable. Rare plant surveys proceeding after a low water year shall be supplemented with one or two additional rare plant surveys over a number of years depending on the rare plant species, annual weather patterns, and whether the project area was recently disturbed (e.g., fire).[...]"</u></p>	<p>Prior to finalizing PEIR /During/After project</p>	<p>TVMWD/project-level lead agency</p>
<p><b>REC-8-Rodenticides</b></p>	<p>CDFW recommends TVMWD exclude the use of second-generation anticoagulant rodenticides for all subsequent individual projects.</p>	<p>Prior to finalizing PEIR /During/After project</p>	<p>TVMWD/project-level lead agency</p>
<p><b>REC-9-Data</b></p>	<p>Project-level lead agencies should ensure sensitive and special status species data has been properly submitted to the <a href="#">California Natural Diversity Database</a> with all data fields applicable filled out. Confirmation of data submittal should be provided to CDFW.</p>	<p>Prior to finalizing/adopting project-level</p>	<p>Project-level lead agency</p>

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		CEQA document	
<b>REC-10-Mitigation and Monitoring Reporting Plan</b>	TVMWD should update the Project's proposed Biological Resources Mitigation Measures and condition the environmental document to include mitigation measures recommended in this letter. TVMWD is welcome to coordinate with CDFW to further review and refine the Project's mitigation measures.	Prior to finalizing PEIR	TVMWD